

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

C.A.NO. 09-11705-NG

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JONATHAN GREEN

Plaintiff.

v.

CITY OF BOSTON; EDWARD DAVIS, in his  
capacity as CHIEF OF THE BOSTON POLICE  
DEPT; TIMOTHY MCCARTHY, individually  
and in his official capacity as an Employee,  
Agent, and/or Officer of the BOSTON POLICE  
DEPARTMENT

Defendants.

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**PLAINTIFF, JONATHAN GREEN'S LOCAL RULE 56.1 A(b)(5) CONCISE  
STATEMENT OF MATERIAL FACTS**

Now comes the Plaintiff, Jonathan Green, and pursuant to L.R. 56.1, provides this Court with a concise statement of undisputed material facts which support the Plaintiff's opposition to Defendant's Motion for Summary Judgment.

**UNDISPUTED MATERIAL FACTS**

***Jonathan Green Testifies That It Was Timothy McCarthy Who Slammed His Head  
Against the Police Cruiser***

1. Jonathan Green (or the Plaintiff or Mr. Green) was outside a 7-11 store, at the corner of St. Botolph and West Newton Streets, when Defendant, Officer McCarthy approached him, and asked him to walk away from the area. ***(Exhibit 1 at pages 3-4).***
2. When Officer McCarthy began walking towards him, Mr. Green straightened his posture to watch him, and then told Officer McCarthy that he lived in the neighborhood on Botolph Street, and pointed in that direction. ***(Id.).***
3. As Mr. Green was about to walk across West Newton Street to go home, Officer McCarthy grabbed Mr. Green by his clothing from behind his back, and stated, "you are being detained, now give me some identification." ***(Id.).***

4. When Mr. Green refused to give the officer his identification, Officer McCarthy responded, "I'm placing you under arrest", and then tried to twist Mr. Green's arm behind his back. (*Id.*).
5. The Plaintiff then turned in a circle to prevent the Defendant from hurting him. The struggle went on for a while before Officer McCarthy and two more police officers (who came on scene) moved Mr. Green to a patrol car, where he was then handcuffed. (*Id.*).
6. At this moment (Mr. Green's being handcuffed at the police cruiser), the Plaintiff was well aware of the exact positioning of the three officers. There was a female officer who was immediately to his left; Officer McCarthy was directly behind Mr. Green; and there was a male officer that was to Plaintiff's right. It was daylight at the time, and Mr. Green's mind was quite clear, and he was not confused at all about the positioning of the officers, or what they did to him while he was at the patrol car. (Exhibit 2 at ¶ 9).
7. After he was cuffed, Mr. Green is **100% certain** that it was Officer McCarthy grabbed the collar of his shirt from behind and slammed his head and face on the car. The reason why Mr. Green is **100% certain** of the identity of the perpetrator is because just before his head was slammed into the cruiser, he had the benefit of his peripheral vision, and could see both the female and male officer flanking his sides, and did not see either of them commit this act. (Exhibit 2 at ¶¶ 10-11).
8. Immediately after the assault, Mr. Green then stated to Officer McCarthy, "You see I'm in handcuffs and yet you grab me by my jersey from behind and slam my head and face on the car..ö ó to which he gave no response. (Exhibit 2 at ¶ 12).
9. Mr. Green then asked one of the other two officers who was present, "if that was necessary", to which the officer responded, "no". (Exhibit 2 at ¶ 13).
10. Mr. Green maintains that only Officer McCarthy, out of three officers was acting aggressively towards him on the day of the incident. (Exhibit 2 at ¶ 8).

Respectfully Submitted,  
JONATHAN GREEN  
By his Attorney,

/s/ Gordon W. Spencer  
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